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DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND
REGULATORY AFFAIRS

Petitioner,

v.

AMERICAN ASSOCIATION OF CHRISTIAN
SCHOOLS, INC.

Respondent

Case No.: CR-I-05-R100224

FINAL ORDER

I. Introduction

This case arises under the Civil Infractions Act of 1985, as amended, D.C. Code, 2001 Ed. §§ 2-1801.01 - 2-1802.05, Title 47 of the D.C. Code, 2001 Ed., and Title 11 of the District of Columbia Municipal Regulations (“DCMR”). By Notice of Infraction (No. R100224) served on February 11, 2005, the District of Columbia Department of Consumer and Regulatory Affairs (“DCRA” or “Government”) charged Respondent American Association of Christian Schools, Inc., with a violation of D.C. Code, 2001 Ed. § 47-2828 for operating an unlicensed housing business and with a violation of 11 DCMR 3203.1 for allegedly using a building other than as a one-family dwelling without a certificate of occupancy. The Notice of Infraction alleged that Respondent violated these provisions on March 11, 2004, at 119 C Street, S.E. (the “Property”), and sought fines totaling \$1,000.

On February 25, 2005, Respondent answered the Notice of Infraction with a plea of Deny. This administrative court (“OAH”) issued a Case Management Order dated March 3, 2005, scheduling an evidentiary hearing for April 5, 2005 at 3:00 PM. On that date, Jonathan Farmer, Esquire, counsel for the Respondent, filed a notice of appearance with the docket clerk of the Office of Administrative Hearings and appeared at the hearing with Tamera Jones on behalf of Respondent. DCRA’s Deputy General Counsel J. Carl Wilson entered his appearance on behalf of the Government at the April 5, 2005, hearing and sought a continuance of the proceedings. The undersigned Administrative Law Judge granted the request, and rescheduled the evidentiary hearing for April 20, 2005, at 2:00 p.m., by Order dated April 14, 2005.

At the hearing on April 20, 2005, Doris A. Parker-Woolridge, Esquire, entered her appearance as counsel on behalf of the Government. Thomas Small, the DCRA Housing Inspector who issued the Notice of Infraction (the “Inspector”), appeared and testified. Respondent again appeared through counsel Jonathan Farmer and Tamera Jones.

At the hearing, this administrative court explained the alternative pleas of Deny, Admit and Admit With Explanation. Respondent confirmed that it understood its options and wished to amend the plea to Admit as to the first charge under D.C. Code, 2001 Ed. § 47-2828 for operating a housing business without a license, but wished to maintain the plea of Deny as to the charge regarding the certificate of occupancy in violation of 11 DCMR 3203.1.

Regarding the charge under 11 DCMR 3203.1, as a preliminary matter DCRA’s counsel proffered that her research showed that Respondent did have a certificate of occupancy for the Property, and sought to amend the charge to failure to post a certificate of occupancy under 11 DCMR 3203.3, and reduce the fine sought to \$50 for that violation. She noted that both

charges were listed in the Housing Violation Notice issued to Respondent. The Government submitted a Summary Motion to reflect this requested amendment. As Respondent did not oppose the request, the undersigned Administrative Law Judge granted the request to amend the second charge. The matter proceeded to an evidentiary hearing on that charge. Respondent declined to present any testimony or evidence.

Based on the exhibits admitted into evidence, the witnesses' testimony, my evaluation of their credibility and the entire record in this matter, I now make the following findings of fact and conclusions of law.

II. Findings of Fact

Between January and June 2004, Housing Inspector Thomas J. Small was part of a special task force organized by DCRA's Permit Division to inspect properties that, based on DCRA records, did not have or did not renew business licenses. Inspector Small inspected the Property on February 11, 2004. Although a three story, five-unit building, neither a business license nor a certificate of occupancy were posted in the entrance vestibule. No one Inspector Small spoke to during his visit identified him/herself as the owner of the building. Inspector Small did not inquire of anyone where the certificate of occupancy might be located.

DCRA subsequently determined that on February 27, 1998, it had issued a certificate of occupancy to Respondent for a 5 unit apartment house at the Property. Petitioner's Exhibit 106. Respondent had no housing business license at the time of the inspection.

III. Conclusions of Law

The Notice of Infraction, as amended, charges Respondent with two infractions: operating an unlicensed housing business in violation of D.C. Code, 2001 Ed. § 47-2828; and not posting a certificate of occupancy in violation of 11 DCMR 3203.3. D.C. Code, 2001 Ed. § 47-2828 provides, in pertinent part, as follows:

[O]wners of residential buildings in which one or more dwelling units or rooming units are offered for rent or lease shall obtain from the Mayor a license to operate such business

11 DCMR 3203.3 provides, in pertinent part:

Except in the case of a church, all certificates of occupancy shall be conspicuously posted in or upon the premises to which they apply so that they may be seen readily by anyone entering the premises

In this case, Respondent admitted that it had no business license and is liable for that violation. Regarding the certificate of occupancy, Inspector Small testified credibly that he had no obligation to go searching through the building on other floors for a certificate of occupancy posted elsewhere, and no obligation to inquire of anyone in the building as to the location of the certificate. Thus, the Government has established that even though Respondent had a certificate of occupancy at the time of the inspection, it was not conspicuously posted where it could be readily seen by anyone entering the premises as required by the applicable regulation. Respondent presented no evidence in defense or in mitigation.

A violation of D.C. Code, 2001 Ed. § 2828 for failure to obtain a license is a Class 2 infraction. 16 DCMR 3214.1(aa).¹ A fine of \$500 is authorized for the first offense of this violation. 16 DCMR 3201.1(b)(1). A violation of 11 DCMR 3203.3 is a Class 4 infraction. 16 DCMR 3229.3(m). A fine of \$50 is authorized for the first offense of this violation. 16 DCMR 3214(d)(1).

IV. Order

Based upon the foregoing findings of fact and conclusions of law, it is this 13th day of December 2006:

ORDERED, that Respondent American Association of Christian Schools, Inc., is **LIABLE** for a violation of D.C. Code, 2001 Ed. §§ 47-2828 and for violation of 11 DCMR 3203.3, as charged in the Notices of Infraction, and it shall pay a total of **FIVE HUNDRED FIFTY DOLLARS (\$550)** in accordance with the attached instructions within 20 calendar days of the mailing date of this Order (15 days plus 5 days for service by mail pursuant to D.C. Code, 2001 Ed. §§ 2-1802.04 and 2-1802.05); and it is further

ORDERED, that if Respondent fails to pay the above amount in full within 20 calendar days of the date of mailing of this Order, interest shall accrue on the unpaid amount at the rate of 1½ % (**EIGHT DOLLARS (\$8)**) per month or portion thereof, starting 20 calendar days after the mailing date of this Order, pursuant to D.C. Code, 2001 Ed. § 2-1802.03(i)(1); and it is further

¹ This administrative court applies the schedule of fines in effect on the date of Respondent's infractions, *i.e.*, February 14, 2004. The court recognizes that a new schedule of fines applies to infractions committed on or after May 27, 2005. *See* 52 D.C. Reg. 4903 (May 27, 2005).

ORDERED, that failure to comply with the attached payment instructions and to remit a payment within the time specified will authorize the imposition of additional sanctions, including the suspension of Respondent's licenses or permits pursuant to D.C. Code, 2001 Ed. § 2-1802.03(f), the placement of a lien on real and personal property owned by Respondent pursuant to D.C. Code, 2001 Ed. § 2-1802.03(i), and the sealing of Respondent's business premises or work sites, pursuant to D.C. Code, 2001 Ed. § 2-1801.03(b)(7); and it is further

ORDERED, that the appeal rights of any person aggrieved by this Order are stated below.

December 13, 2006

Beverly Sherman Nash

Beverly Sherman Nash
Administrative Law Judge